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EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/003,187	MASSEY, KENT	
	Examiner	Art Unit	
	Farzana E. Hossain	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 August 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 March 2006* is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This office action is in response to communications filed 08/31/2007. Claims 1 and 6 are amended. Claims 2 and 7 are cancelled. Claims 3-5 have been previously presented.

Response to Arguments

2. Applicant's arguments filed 08/31/2006 have been fully considered but they are not persuasive.

Regarding claim 5, the applicant argues that Green does not disclose the limitations "b) for attributes which are common to more than one product or service, producing some of the potentially viewable scenes to provide comprehensive information about the attribute and alternative scenes to provide abbreviated information about the attribute" and "f) in response to the viewer's selected one of the alternative decisions, presenting to the viewer, in each module that correspond to the selected by the alternative decision that can be presented in a different order, the scenes providing comprehensive information for attributes not previously presented to the viewer in an earlier module and the alternative scenes providing abbreviated information for attributes previously presented to the viewer in an earlier module" (Pages 7-8).

In response to the arguments, the applicant's specification provides an example of a visitor selecting a website for a automobile dealer and selecting a model with features and then choosing another vehicle (i.e. full size vehicle and then mid size vehicle) which provides alternative scenes and an abbreviated scene sequence which states mid size model uses the same system an full size model (paragraphs 0017-0018). However, the applicant's claim limitation does not disclose that an abbreviated scene includes this information. Green discloses that providing plurality of potentially viewable scenes in a plurality of modules (Figure 13, Figure 12A, Figures 7A, 7B, 8A, 8B, 9, 9A) and for attributes that are common producing viewable scenes (Figure 12A) but alternative scenes to provide abbreviated information about the attribute (i.e. type of car or transmission or price (Figures 7, 8, 9, 10, 11) to produce abbreviated scenes with limited information (Figure 12) and the viewer can select to view the abbreviated scene with similar information from detailed information (Figure 13). Merriam-Webster's 10th edition Collegiate Dictionary defines "abbreviate" as to make briefer. Green discloses that the applicant is provided with abbreviated scenes by the selection of different branches provided during the query (Figures 7, 8, 9, 10, 11) so that a minimum number of results are displayed for abbreviated scene. The applicant is arguing limitations not provided in the claim specifically an abbreviated scene specifically disclosing that the mid size vehicle has same features of full size vehicle.

3. Regarding Claim 6, the applicant argues that Green does not disclose steps (b), (c), (g) and (h). The applicant argues that if the attribute or attributes are common to

more than one product or service recalling that the viewer made an alternative decision regarding same attribute and than the viewer is not prompted to make the same decision in a later module. The applicant further argues that Green discloses offering the viewer additional information but that he gets a fixed scene that never changes and Green does not remove the detail screen as an alternative decision (Pages 10-11).

In response to arguments, Green teaches, in at least one module (Figures 7A, 7B, 8A, 8b, 9, 10, 11, Figure 12A), providing basic scenes which provide information about an attribute that are presented to the viewer when the module is viewed, and providing a set of alternative scenes which are only presented to the viewer in response to an interactive request by the viewer for additional information or allowing a user to choose the type of vehicle such as cars, trucks, vans, American Cars and American vans and then choosing models based on that decision (Figures 7A, 7B, 8A, 8b, 9, 10, 11), presenting to the viewer at branching points that follow a basic scene providing information about an attribute, alternative decisions enabling the viewer to request additional information about the attribute that determine the next scene sequence to be presented to the viewer (Figure 7A, Figure 7B, Figures 8A, 8b, 9, 10, 11, Figure 12A), presenting to the viewer at branching points that follow a basic scene providing information about an attribute, alternative decisions enabling the viewer to request additional information about the attribute that determine the next scene sequence to be presented to the viewer, (Figure 7A, Figure 7B, Figures 8A, 8b, 9, 10, 11). Green teaches for attributes which are common to more than one product or service, recalling whether the viewer made an alternative decision regarding the same attribute in an

earlier viewed module (Column 9, lines 15-32) such as the decision to pick a type of car, type of transmission screen or price and not prompting the viewer to make the same decision in a later module by disclosing as the customer adds to the query, the system will not ask the customer again which transmission is preferred (Figures 7A, 7B, 8A, 8B, 9, 10, 11).

4. Applicant's arguments filed 08/31/2007 have been fully considered but they are not persuasive.

Regarding Claim 1, The applicant argues that Haberman does not disclose "branching points" as the viewer has no ability to make selection because no alternatives are presented to her thus steps (b) through (e) are not disclosed by Haberman (Page 11). The applicant further argues that Shiels does not teach or suggest steps (f), (g) or (h) and Shiels does not track the viewer's cumulative decision to imputes the viewer's preferences and interests in a product (Page 12).

In response to the arguments, Haberman teaches delivering some of the scenes to the viewer (Page 3, paragraphs 00040-0041). Haberman teaches tracking the viewer's cumulative selected decisions and imputing that particular viewer's preferences and interests based on the viewer's decisions or determining probable personal preferences of categories of viewers (Figure 3, 64), producing some of such scenes as alternative scenes having content that is associated to such personal preferences (Figure 6) and deciding the final selection from the parts by matching the personalization information 62 against the user profile for each of the possible choices

for the products and services (Page 3, paragraphs, 0040-0041, Page 4, paragraphs 0046-0053). Shiels discloses elements (b) delivering some of the scenes to the viewer as the branching points at which alterative decisions are presented to the viewer that will determine the next scene sequence to be presented to the viewer (Column 7, lines 2-18); (c) for each alternative decision at each branching point, having available to present to the viewer a scene sequence corresponding to the alternative decision (Figure 6); (d) enabling the viewer to select one of the alternative decisions (Column 7, lines 32-41); (e) in response to the viewer's selected one of the alternative decisions, presenting the scene sequence that corresponds to the selected decision (Figure 6, B, C, D, E).

Furthermore, Shiels discloses tracking the viewer's cumulative selected decisions as the user can have saved settings (Column 9, lines 7-12). Merriam-Webster's 10th edition Collegiate Dictionary defines "impute" as to credit a person or cause. Therefore, Shiels discloses imputing that particular viewer's preferences and interests based on the viewer's selected decisions or from saved settings, the preferences and interests can be credited to the user so that the narrative flow is less susceptible to discontinuities (Column 2, lines 9-13) and also capture scenes which allow the user to capture scenes and the user may be provided with the ability to call up scenes and replace the current scene with a flashback (Column 9, lines 7-67, Column 10, lines 1-3, Column 2, lines 9-12, Column 12, lines 7-10). Shiels discloses producing one or more sets of variation scenes that introduce the information content that address the different possible viewer preferences and interests for the services, based on previous decisions selected from

among the alternative decisions presented prior to the scene sequence, each set of variation scenes being associated with a scene that is viewable after the branching points which includes decisions made in prior episodes as well as decisions made to capture scenes and to use capture scenes as alternative scenes (Column 9, lines 7-67, Column 10, lines 1-3, Column 2, lines 9-12, Column 12, lines 7-10); and when the viewer is brought to a scene sequence that contains one of the sets of variation scenes, interspersing into the scene sequence the variation scene corresponding to the viewer's imputed preferences and interests, based on the viewer's selected one of the alternative decisions from among the alternative decisions presented prior to the scene sequence (Figure 3, Column 9, lines 7-67, Column 10, lines 1-3, Column 2, lines 9-12, Column 12, lines 7-10).

Shiels combined with Haberman discloses preferences and interests, which impute the preferences based on viewer's selected decisions and other limitations of the claim.

5. Applicant's arguments filed 08/31/2007 have been fully considered but they are not persuasive.

Regarding Claim 3, Applicant argues that Haberman and Shiels do not disclose steps (b), (d), (e) and (f) (Pages 12-13). The applicant further argues that Shiels does not change the order in which a module is viewed and that the branching moves consistently from beginning toward end (Page 13). The applicant argues Shiels does not teach modifying neutral scenes showing information about selected automobile by

interspersing alternative scenes pertaining to customer's apparent inters in safety features imputed from her prior decisions (Pages 13-14).

In response to the argument, the examiner respectfully disagrees. Haberman teaches, presenting to the viewer neutral scenes interspersed with alternative scenes that are appropriate to the relative order in which the subsequent module is presented (Figure 6, D-5 and D-11). Shiels discloses a branched narrative structure starting with a common introductory portion (Figure 6, Column 7, lines 2-46). Shiels discloses in at least one of the modules, presenting to the viewer a set of alternative decisions each alternative decision determining an order in which a subsequent module will be presented or asking the user which path the narrative will take, with the user navigating through the network of possible story lines to reach one of the four possible endings and effectively determining the order in which the modules are viewed (Column 7, lines 5-8) and a menu of possible options may be displayed asking the user to make a selection using a user input device (Column 7, lines 33-40). Shiels discloses enabling the viewer to select one of the alterative decisions or a list of options will be displayed to the viewer when a decision is need (Column 7, lines 33-40).

The claimed limitation "A different order" can be met by common nodes H, J, and K which may appear in the narrative regardless of which path is chosen at node A (Column 7, lines 2-18). Shiels further teaches providing alternative-ending scenes W-Z, which are dependent on the decisions, made by the viewer at the previous nodes or "modules" as disclosed by Shiels (Column 7, lines 2-46). A different order does not need to have alternative scenes flip-flopped so that scene K has to happen before

scene H as argued by the applicant. Shiels also teaches that users can choose to recall scenes that were captured so that they are provided after future scenes as flashback, which gives them alternative scenes in a different order (Column 9, lines 30-67, Column 10, lines 1-12). Shiels clearly discloses that different scene sequences are presented based on decisions.

The applicant argues a limitation that cannot be found in claim 3. Shiels clearly provides neutral scenes and alternative scenes (Figure 6, Column 7, lines 2-46). Haberman teaches neutral scenes and alternative scenes (Figure 6, D-5 and D-11). Merriam Webster's 10th edition Collegiate Dictionary defines "intersperse" as to place something in interval in or among. Therefore, Shiels discloses presenting to the viewer neutral scenes interspersed with alternative scenes that correspond to the viewer's selected one of the alternative decisions and are appropriate to the relative order in which the subsequent module is presented or that common nodes are displayed based on one of the alternative decisions made by the viewer (Column 7, lines 2-18). However, the claim limitations do not disclose modifying neutral scenes showing information about selected automobile by interspersing alternative scenes pertaining to customer's apparent inters in safety features imputed from her prior decisions. The applicant is arguing elements of the applicant's specification into the claim limitations. Therefore, this argument is considered moot.

Furthermore, the new KSR ruling includes rationale that if all the claimed elements that are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective

functions, and the combination of Haberman and Shiels would have to yield predictable results to one of ordinary skill in the art at the time of the invention.

6. Regarding Claim 4, the applicant argues that Haberman and Shiels do not present to the viewer neutral scenes interspersed with alternative scenes that correspond to the viewer's selected alternative decisions and are appropriate to relative order in which module is presented by presenting alternate scenes to avoid repeating information about goods or services already conveyed to the viewer in previous scenes (Page 14). The applicant reiterates the argument that Shiels cannot modify the neutral scenes by interspersing alternative scenes pertaining to a customer's apparent interest at all much less select the appropriate alternative scenes so that she is not merely shown a repeat of the same additional information (Page 14).

In response to the arguments, Haberman discloses the step of presenting to the viewer neutral scenes interspersed with alternative scenes that are appropriate to the relative order in which the module is presented includes presenting alternate scenes to avoid repeating information already conveyed to the viewer in previous scenes or the system may keep track of which segments were previously shown to any audience, so in a next transmission, different segments not before seen by the audience can be shown (Figure 3, Page 3, paragraphs 0040-0042). Shiels discloses presenting to the viewer neutral scenes interspersed with alternative scenes that correspond to the viewer's selected one of the alternative decisions and are appropriate to the relative order in which the module is presented (Column 7, lines 2-46).

See response to arguments for claim 3.

7. The Office acknowledges that the applicant will file a terminal disclaimer in the event that claims are allowable. However, the provisionally double patenting rejection will remain.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Green et al (US 6,041,310 and hereafter referred to as "Green").

Regarding Claim 5, Green discloses a method for presenting digital video work for marketing products or services to potential purchasers, wherein content of the interactive digital video work can be customized based upon each viewer's decisions, (Abstract), the method comprising the steps of:

providing a plurality of potentially viewable scenes (Figure 1, 12, Column 5, lines 31-34) to deliver to a viewer in a plurality of modules (Figure 13, 160), each module

corresponding to a product or service, wherein the potentially viewable scenes of each such module provide information about attributes (figure 13, 162) of the product or service (Column 11, line 66 -Column 12, line 12). Green discloses an inventory list 120 shown in figure 12A that allows the customer to select a car to view more information regarding "product" or car.

Green discloses, for attributes (162 -figure 13) which are common to more than one product or service, producing some of the potentially viewable scenes to provide comprehensive information about the attribute and alternative scenes to provide abbreviated information about the attribute (Column 11, lines 8-67,Column 12, lines 1-12). Green discloses a minimum number of cars or "products" are needed to compile inventory list (Figure 9A, 120) and if a car does not exactly match the customers query, but can closely match the customers query, the car will be added to inventory list in order to make a complete list (Figure 9A, 120, Column 11, lines 8-40). Green discloses when a customer selects a car that is an exact match to the customer's query, the customer is provided with selected vehicle screen with comprehensive scenes regarding the car (Figure 13) and this screen may provide the customer with more information regarding the transmission, such as the car has a 4 speed automatic (Figure 13). Green discloses that when a customer later selects a car that only comes close to matching after viewing all the cars that exactly matched first, the customer is provided selected vehicle screen 160 and is provided with abbreviated scenes as the selected car may not include all the same features as a previously viewed car that matched the customer's query (Figure 13, Figure 12A).

Green discloses presenting to the viewer alternative decisions that allow the viewer to select an order in which modules will be presented by disclosing inventory list allows the customer to view a list of cars or "products" with common attributes and facilitates the customer to view more information regarding a car by selecting an individual car (Figure 9A, 120). In response to the selection, the user will view selected vehicle screen 160 or "module" and has the option to return back to inventory list 120 to select another individual vehicle (Figure 13, Figure 12, Figure 9A). Therefore, the customer is presented with alternative decisions that allow the customer to select the order selected vehicle screen 160 or "modules" are shown.

Green discloses delivering some of the potentially viewable scenes to the viewer as branching points at which alterative decisions are presented that will determine a scene sequence to be presented to the viewer or the viewer is presented with alternative decisions after a display and from different queries which will take the user to different scenes based on the decision (Column 5, lines 31-34, Figures 8B, 9, 9A, Figure 1, 12, Figure 13, 150).

Green discloses, enabling the viewer to select one of the alternative decisions or a user may input information or commands by simply using the touch screen and pressing on one of the displayed choices (Column 6, lines 37-40). Green teaches, prompting the viewer to make one of the alternative decisions or top of inventory list screen 120, a prompt displayed to the customer to instruct the customer how to select a vehicle to view more information regarding the car or "product" (Figure 12A, Column 11, lines 8-65).

Green teaches in response to the viewer's selected one of the alternative decisions, presenting to the viewer, in each module (Figure 13, 160) that correspond to the selected by the alternative decision that can be presented in a different order, the scenes providing comprehensive information for attributes not previously presented to the viewer in an earlier module and the alternative scenes providing abbreviated information for attributes previously presented to the viewer in an earlier module or when a minimum number of cars or "products" do not exactly match the customers query, the inventory list 120 will include cars or "products" that come close to matching in order to meet the minimum number of cars to be shown requirement (Column 11, lines 8-51). Therefore, when a customer selects a car that exactly matches the query, the customer is provided selected vehicle screen 160 with comprehensive scenes regarding the car and when a customer later selects a car that only comes close to matching after viewing all the cars that exactly matched first, the customer is provided selected vehicle screen 160 and is provided with abbreviated scenes as the selected car does not include all the same features as the previously viewed car.

Regarding Claim 6, Green discloses a method for presenting digital video work for marketing products or services to potential purchasers wherein content of the interactive digital video work can be customized based upon each viewer's decisions (Abstract), the method comprising the steps of: providing a plurality of potentially viewable scenes (Figure 1, 12; Column 5, lines 31-34) to deliver to a viewer in a plurality of modules (Figure 7, Figure 8, Figure 9, Figure 10, Figure 11), each module

corresponding to a product or service, wherein the potentially viewable scenes of each such module provide information about attributes (Figure 7, Figure 8, Figure 9, Figure 10, Figure 11) of the product or service (Figure 7, Figure 8, Figure 9, Figure 10, Figure 11, Column 11, line 38 -Column 12, line 12).

Green teaches, in at least one module (Figures 7A, 7B, 8A, 8b, 9, 10, 11, Figure 12A), providing basic scenes which provide information about an attribute that are presented to the viewer when the module is viewed, and providing a set of alternative scenes which are only presented to the viewer in response to an interactive request by the viewer for additional information or allowing a user to choose the type of vehicle such as cars, trucks, vans, American Cars and American vans and then choosing models based on that decision (Figures 7A, 7B, 8A, 8B, 9, 10, 11).

Green teaches, presenting to the viewer at branching points that follow a basic scene providing information about an attribute, alternative decisions enabling the viewer to request additional information about the attribute that determine the next scene sequence to be presented to the viewer (Figure 7A, Figure 7B, Figures 8A, 8b, 9, 10, 11, Figure 12A).

Green teaches, enabling the viewer to select one of the alternative decisions (Column 6, lines 37-40).

Green teaches, prompting the viewer to select one of the alternative decisions (Figure 7, Figure 8, Figure 9, Figure 10, Figure 11).

Green teaches, presenting to the viewer in response to the viewer's selected alternative decision the set of alternative scenes that correspond to the selected

alternative decision or in response to a particular vehicle choice, model selections for that vehicle selection (Figure 7, Figure 8, Figure 9, Figure 10, Figure 11).

Green teaches for attributes which are common to more than one product or service, recalling whether the viewer made an alternative decision regarding the same attribute in an earlier viewed module (Column 9, lines 15-32, Figures 7A, 7B, 8A, 8b, 9, 10, 11).

Green teaches, if the viewer has made an alternative decision requesting additional information about the same attribute in a previously viewed module, not prompting the viewer to make the same decision in a later module by disclosing as the customer adds to the query, the system will not ask the customer again which transmission is preferred (Figures 7A, 7B, 8A, 8B, 9, 10, 11, Figure 12A).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 1, 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haberman et al (US 2002/0013943 and hereafter referred to as "Haberman") in view of Shiels et al (US 5,737,527 and hereafter referred to as "Shiels").

Regarding Claim 1, Haberman discloses a method for the simultaneous creation, assembly and transmission of synchronous multiple personalized message to specific targeted individual or other entities or presenting an interactive digital video work used for marketing products or services to potential purchaser viewers that can customize the content presented after branching points to a particular viewer based upon the viewer's preferences (Abstract, Figure 3, paragraphs 0009-0011Figure 6, slots), the method comprising the steps of:

(a) providing a plurality of potentially viewable scenes to deliver information content about products or services to a viewer (Figure 3). Haberman discloses providing to viewers personalized messages and commercials that are more relevant given their personal situation or products or services (Figure 3, Figure 6, Page 3, paragraph 0040-0041). Personalized messages can be part of traditional broadcast (digital) television, advanced broadcast (digital) television (incl. video on demand) or streamed programs on the Internet (Page 2, paragraph 0022). Haberman teaches creating different options or "sequences" of each slot or "modules", multiple versions of an entire video feed can be combined (Page 3, paragraphs 00040-0041). Haberman teaches determining probable personal preferences of categories of viewers" by disclosing to personalize a commercial or tracking the viewer's cumulative selected decisions and imputing that particular viewer's preferences and interests based on the viewer's decisions (Figure 3, 64) for each viewer, the viewer-specific path through each template of the commercial (i.e., the selection of the option to play for each slot) will be selected at the latest moment possible (Just-In-Time-Advertising-JITA), based on

information (Figure 2, 62) available on that viewer (e.g., from customer databases) (Page 4, paragraph 0048). Haberman teaches producing some of such scenes as alternative scenes having content that is associated to such personal preferences or commercial for vacationing in Bermuda which can be customized to showcase a variety of activities to a viewer (Figure 6). Further, STB 58 can make the final selection from the parts by matching the personalization information 62 against the user profile for each of the possible choices for products and services (Page 3, paragraphs, 0040-0041, Page 4, paragraphs 0046-0053). Haberman teaches a commercial that is customized based on the viewers' sex, and hobbies or interest (Figure 6) and a slot or "module" is provided for default activity that comprises three or more activities that can be shown to the viewer depending on the known sex of the viewer and the known interests about the viewer. For example a young woman may be targeted with sequence about tennis and a young family may be targeted with a sequence about scuba. Haberman further discloses information can be obtained about viewers from data mining organizations (Page 2, paragraph 0016). Therefore, information about the viewer, like interests and hobbies, can be interspersed with other scenes within a commercial so a personalized message can be created and targeted towards a specific demographic of viewer.

Haberman is silent on users making decisions at each branching point including delivering some of the scenes to the viewer as the branching points at which alterative decisions are presented to the viewer that will determine the next scene sequence to be presented to the viewer; for each alterative decision at each branching point, having

available to present to the viewer a scene sequence corresponding to the alternative decision; enabling the view to select one of the alternative decisions; in response to the viewer's selected one of the alternative decisions, presenting the scene sequence that corresponds to the selected decision; tracking the viewer's cumulative selected decisions and imputing that particular viewer's preferences and interests based on the viewer's selected decisions; producing one or more sets of variation scenes that introduce the information content that address the different possible viewer preferences and interests, based on previous decisions selected from among the alternative decisions presented prior to the scene sequence, each set of variation scenes being associated with a scene that is viewable after the branching points; and when the viewer is brought to a scene sequence that contains one of the sets of variation scenes, interspersing into the scene sequence the variation scene corresponding to the viewer's imputed preferences and interests, based on the viewer's selected one of the alternative decisions from among the alternative decisions presented prior to the scene sequence.

Shiels discloses a method of presenting an interactive digital video work that can customize the content presented after branching points to a particular viewer based upon the viewer's preferences (Figure 6), providing a plurality of potentially viewable scenes to deliver information content about pay per view play or services to a viewer (Figure 6, Column 7, lines 2-18); delivering some of the scenes to the viewer as the branching points at which alterative decisions are presented to the viewer that will determine the next scene sequence to be presented to the viewer (Column 7, lines 2-18); for each alternative decision at each branching point, having available to present to

the viewer a scene sequence corresponding to the alternative decision (Figure 6); enabling the viewer to select one of the alternative decisions (Column 7, lines 32-41); in response to the viewer's selected one of the alternative decisions, presenting the scene sequence that corresponds to the selected decision (Figure 6, B, C, D, E). Shiels discloses tracking the viewer's cumulative selected decisions and imputing that particular viewer's preferences and interests based on the viewer's selected decisions or saving the settings during an interactive session so that future sessions do not have saved settings as values instead of default values and also capture scenes which allow the user to capture scenes and the user may be provided with the ability to call up scenes and replace the current scene with a flashback (Column 9, lines 7-67, Column 10, lines 1-3, Column 2, lines 9-12, Column 12, lines 7-10). Shiels discloses producing one or more sets of variation scenes that introduce the information content that address the different possible viewer preferences and interests, based on previous decisions selected from among the alternative decisions presented prior to the scene sequence, each set of variation scenes being associated with a scene that is viewable after the branching points (Column 9, lines 7-67, Column 10, lines 1-3, Column 2, lines 9-12, Column 12, lines 7-10); and when the viewer is brought to a scene sequence that contains one of the sets of variation scenes, interspersing into the scene sequence the variation scene corresponding to the viewer's imputed preferences and interests for the services, based on the viewer's selected one of the alternative decisions from among the alternative decisions presented prior to the scene sequence (Figure 3, Column 9, lines 7-67, Column 10, lines 1-3, Column 2, lines 9-12, Column 12, lines 7-10).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Haberman with the teachings of Shiels in order to prompt the viewer to make on of the alternative decisions that will determine the order of a subsequent module and providing neutral scenes that do not depend from the alternative scenes that were previously chosen. One would have been motivated to make this modification for the benefit of facilitating user interaction with branch-structured commercial to better personalize the commercial for the viewer (Summary) as disclosed by Shiels.

Regarding Claim 3, Haberman discloses a method for presenting an interactive digital video work for marketing products or services to potential purchasers, wherein content of the interactive digital video work can be customized based upon each viewer's decisions (Abstract, Page 1, paragraphs 0009-0011), the method comprising the steps of:

(a) providing a plurality of potentially viewable scenes to deliver to a viewer in a plurality of modules, each module containing potentially viewable scenes about a product or service or creating options or sequences for each slot or module, where multiple versions of an entire video feed can be combined (Figure 3, Figure 6, Page 3, paragraph 0040-0041). Haberman teaches, presenting to the viewer neutral scenes interspersed with alternative scenes that are appropriate to the relative order in which the subsequent module is presented (Figure 6), common or "neutral scenes" (Figure 6, D-5 and D-11). The common or "neutral scenes" will be shown in the commercial and

viewed by everyone no matter whether the target audience be a young woman or a young family.

However, Haberman fails to explicitly disclose in at least one of the modules, presenting to the viewer alternative decisions that will determine an order in which at a subsequent module will be presented; enabling the viewer to select one of the alternative decisions; in each module that can be presented in a different order, providing neutral scenes in which the content is not dependant upon the order in which the module is viewed, providing sets of alternative scenes in which the content is dependant upon the order in which the module is viewed; and prompting the viewer to make one of the alternative decisions that will determine the order of a subsequent module and presenting the neutral scenes interspersed with alternative scenes that correspond to viewer's selected one of the alternative decisions.

In analogous art, Shiels discloses a branched narrative structure starting with a common introductory portion (Figure 6, Column 7, lines 2-46). Shiels discloses in at least one of the modules, presenting to the viewer a set of alternative decisions each alternative decision determining an order in which a subsequent module will be presented or asking the user which path the narrative will take, with the user navigating through the network of possible story lines to reach one of the four possible endings and effectively determining the order in which the modules are viewed (Column 7, lines 5-8) and a menu of possible options may be displayed asking the user to make a selection using a user input device (Column 7, lines 33-40).

Shiels discloses enabling the viewer to select one of the alterative decisions or a list of options will be displayed to the viewer when a decision is need (Column 7, lines 33-40).

Shiels discloses in each module that can be presented in a different order, providing neutral scenes in which the content is not dependant upon the order in which the module is viewed, and providing sets of alternative scenes in which the content is dependant upon the order in which the module is viewed or common nodes H, J, and K which may appear in the narrative regardless of which path is chosen at node A (Column 7, lines 2-18). Shiels further teaches providing alternative ending scenes W-Z, which are dependent on the decisions, made by the viewer at the previous nodes or "modules" (Column 7, lines 2-46).

Shiels further discloses prompting the viewer to select one of the alternative decisions that will determine the order of a subsequent module or an interaction period may be indicated to the viewer by displaying a menu of possible options on the screen and allowing to user to select one of the displayed options (Column 7, lines 32-46).

Shiels discloses presenting to the viewer neutral scenes interspersed with alternative scenes that correspond to the viewer's selected one of the alternative decisions and are appropriate to the relative order in which the subsequent module is presented or that common nodes are displayed based on one of the alternative decisions made by the viewer (Column 7, lines 2-18).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Haberman with the teachings of Shiels in order

to prompt the viewer to make on of the alternative decisions that will determine the order of a subsequent module and providing neutral scenes that do not depend from the alternative scenes that were previously chosen. One would have been motivated to make this modification for the benefit of facilitating user interaction with branch-structured commercial to better personalize the commercial for the viewer (Summary) as disclosed by Shiels.

Regarding Claim 4, Haberman and Shiels disclose all the limitations of Claim 3. Haberman discloses the step of presenting to the viewer neutral scenes interspersed with alternative scenes that are appropriate to the relative order in which the module is presented includes presenting alternate scenes to avoid repeating information already conveyed to the viewer in previous scenes or the system may keep track of which segments were previously shown to any audience, so in a next transmission, different segments not before seen by the audience can be shown (Figure 3, Page 2, paragraph 0040-0042). Shiels discloses presenting to the viewer neutral scenes interspersed with alternative scenes that correspond to the viewer's selected one of the alternative decisions and are appropriate to the relative order in which the module is presented (Column 7, lines 2-46).

Double Patenting

12. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory

obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

13. Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/003,196 in view of Bejan et al (US 5,465,384 and hereafter referred to as "Bejan").

The instant application's "a method of presenting an interactive digital video work used for marketing products or services to potential purchaser viewers that can customize the content presented after branching points to a particular viewer based upon viewer's preferences" is met by "a method for structuring scene sequences for interactive entertainment" of Application No. 10/003,196, as interactive entertainment is based on viewer's preferences and for services.

The instant application's "providing a plurality of potentially viewable scenes to deliver information content to a viewer; delivering some of the scenes to the viewer as the branching points at which alternative decisions are presented that will determine the next scene sequence to be presented to the viewer; for each alternative decision at a

branching point, having available to present to the viewer a scene sequence corresponding to the alternative decision; enabling the viewer to select one of the alternative decisions; in response to the viewer's selected one of the alternative decisions, presenting the scene sequence that corresponds to the decision" is met by "providing a plurality of potentially viewable scenes to deliver an overall storyline to a viewer; delivering some of the scenes to the viewer as branching points at which alternative decisions are presented that will determine the next scene sequence to be presented to the viewer; for each alternative decision at a branching point, having available to present to the viewer a scene sequence corresponding to the decision; enabling the viewer to select one of the alternative decisions; in response to the viewer's selected one of the alternative decisions, presenting the scene sequence that corresponds to the decision" the limitations of Application No. 10/003,196.

The instant application is missing "structuring the branching points and their related scene sequences such that essentially every set of scene sequences determined by viewer decisions eventually reaches at least one linking scene containing content that is not dependant upon the particular decisions made prior to the linking scene; producing one or more sets of variation scenes that introduce content that reflects the consequences of previous decisions selected from among the alternative decisions presented prior to the linking scene, each set of variation scenes being associated with a scene that is viewable after the linking scene or after intersection scene or linking scene branching continues; and when the viewer is brought to a scene

sequence that contains a set of variation scenes, interspersing into the scene sequence the variation scene corresponding to the viewer's selected one of the alternative decisions from among the alternative decisions presented prior to the linking scene". It would be obvious to modify the instant application to include the limitation found in Application 10/003,196 as it is taught by prior art. Bejan teaches the additional features (Figure 3).

The instant application's "tracking the viewer's cumulative selected decisions and imputing that particular viewer's preferences and interests based on the viewer's selected decision; producing one or more sets of variation scenes that introduce the information content that address the different possible viewer preferences and interest, based on previous decisions selected from among the alternative decisions presented prior to the scene sequence, each set of variation scenes being associated with a scene that is viewable after the branching points; when the viewer is brought to a scene sequence that contains one of the sets of variation scenes, interspersing into the scene sequence the variation scene corresponding to the viewer's imputed preferences and interests for such products or services, based on the viewer's selected one of the alternative decisions from among the alternative decisions presented prior to the scene sequence" are additional features. It would have been obvious to modify Application No. 10/003,196 to include these limitations.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 7:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FEH
November 6, 2007

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